

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JESSICA M. BROWN,
Plaintiff,

v.

AMA/NYAG for GOODWILL, LLC,
Defendants.

Case No. 2:24-cv-00470-APG-EJY

ORDER

Pending before the Court is Plaintiff's third attempt to submit a compliant application to proceed *in forma pauperis* ("IFP"). ECF No. 6. Plaintiff also filed a Motion seeking appointment of counsel. ECF No. 7.

Attached to this Order are the two forms that Plaintiff must submit to complete her IFP application. The Florence McClure Women's Correctional Center ("FMWCC") should be able to provide Plaintiff with a printout of her trust fund account statement, an example of which is attached as Exhibit 1. The Financial Certificate form is page four of the IFP packet Plaintiff previously received, but which the Court attaches again as Exhibit 2.

Plaintiff's Motion seeking appointment of counsel fails for two reasons. First, as a civil litigant, Plaintiff has no right to counsel. *Lassiter v. Department of Social Services of Durham County*, 452 U.S. 18 (1981); *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Second, a court may under "exceptional circumstances" appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1). *Agyeman v. Corrs. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004), *cert. denied sub nom. Gerber v. Agyeman*, 545 U.S. 1128 (2005). When determining whether "exceptional circumstances" exist, a court must consider "the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved." *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir.1983). Plaintiff has not demonstrated exceptional circumstances at this juncture of her case.

1 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Application to Proceed *in forma*
2 *pauperis* (ECF No. 6) will be held by the Court at this time.

3 IT IS FURTHER ORDERED that Plaintiff's Application to Proceed *in forma pauperis* (ECF
4 No. 4) is DENIED as moot.

5 IT IS FURTHER ORDERED that Plaintiff must submit a completed Financial Certificate
6 (attached hereto as Exhibit 2) signed by the Florence McClure Women's Correctional Center and by
7 Plaintiff, together with a printout of her trust fund account statement (example attached as Exhibit
8 1) for the last six months (or, if Plaintiff has not been at the facility for six months, for the period of
9 time she has been housed at the FMWCC), no later than **May 25, 2024**.

10 IT IS FURTHER ORDERED that Plaintiff's Motion seeking appointment of counsel (ECF
11 No. 7) is DENIED.

12 IT IS FURTHER ORDERED that if Plaintiff fails to file the completed Financial Certificate
13 and print out of her trust fund account statement by or before **May 25, 2024**, the Court will
14 recommend this case be dismissed without prejudice as Plaintiff will have had three opportunities to
15 submit a complete application to proceed *in forma pauperis*. A dismissal without prejudice allows
16 Plaintiff to commence a new claim, with a complete *in forma pauperis* application and complaint,
17 when she is able to do so.

18 DATED this 16th day of April, 2024.

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21 ELAYNA J. YOUCHAK
22 UNITED STATES MAGISTRATE JUDGE
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EXHIBIT 1

Financial Certificates**[REDACTED]****Trust3**

Date	Description	Deposit	Withdrawal	Balance
[REDACTED]	[REDACTED]	No Activity		[REDACTED]

Savings

Date	Description	Deposit	Withdrawal	Balance
[REDACTED]	[REDACTED]	No Activity		[REDACTED]

SAMPLE

EXHIBIT 2

FINANCIAL CERTIFICATE

I request that an authorized officer of the institution in which I am confined, or other designated entity, such as Inmate Services for the Nevada Department of Prisons (NDOC), complete the below Financial Certificate.

I understand that:

(1) if I commence a petition for writ of habeas corpus in federal court pursuant to 28 U.S.C. § 2254, the filing fee is \$5.00, and that such fee will have to be paid by me if the court denies my *in forma pauperis* application;

(2) if I commence a civil rights action in federal court pursuant to 42 U.S.C. § 1983, the filing fee is \$402.00 (which includes the \$350 filing fee and a \$52 administrative fee), which I must pay in full; and

(a) if my current account balance (line #1 below) is \$402.00 or more, I will not qualify for *in forma pauperis* status and I must pay the full filing fee of \$402.00 before I will be allowed to proceed with the action;

(b) if I do **NOT** have \$402.00 in my account as reflected on line #1 below, before I will be allowed to proceed with an action I will be required to pay 20% of my average monthly balance (line #2 below), or the average monthly deposits to my account (line #3 below), whichever is greater, and thereafter I must pay installments of 20% of the preceding month's deposits to my account in months that my account balance exceeds \$10.00 (if I am in the custody of the NDOC, I hereby authorize the NDOC to make such deductions from deposits to my account, and I further understand that if I have a prison job, then the 20% of my paycheck that is guaranteed to me as spendable money will be sent to the court for payment of the filing fee); and

(c) I must continue to make installment payments until the \$350.00 filing fee is fully paid, without regard to whether my action is closed or my release from confinement. The \$52 administrative fee will be waived only if I am granted permission to proceed *in forma pauperis*.

Type of action (check one): ☐ civil rights ☐ habeas corpus

INMATE NAME (printed)

SIGNATURE & PRISON NUMBER

1. CURRENT ACCOUNT BALANCE _____

2. AVERAGE MONTHLY BALANCE* _____

3. AVERAGE MONTHLY DEPOSITS* _____

4. FILING FEE (based on #1, #2 or #3, whichever is greater) _____

* for the past six (6) months, from all sources, including amount in any savings account that is in excess of minimum amount that must be maintained

I hereby certify that as of this date, the above financial information is accurate for the above named inmate.

**(Please sign in ink in a
color other than black.)**

AUTHORIZED OFFICER

DATE

TITLE